



# The Dutch Inquiry Committee on Historical Child Abuse in Alternative Care

**University of Leiden &  
Defence for Children Netherlands**



Submission UN Day of General Discussion  
June 2021



Hart voor Kinderrechten



# DUTCH INQUIRY COMMITTEE HISTORICAL CHILD ABUSE IN ALTERNATIVE CARE

Ben: "If they had believed me then, it might have been different. My life would have been different."<sup>1</sup>

## INTRODUCTION

With this submission on child abuse in alternative care in the Netherlands, Defence for Children Netherlands and the University of Leiden wish to respond to the call for submission regarding the Day of General Discussion: 'Children's Rights and Alternative Care' on 16-17 September 2021. It is argued that the research of the Dutch Inquiry Committee on Historical Child Abuse in Alternative Care is a **good practice in combatting violence against children. The experience and lessons learned from the process are presented in this submission for an international audience.**

## CONTACT DETAILS

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<sup>1</sup> Quote from Ben, displayed in the video available on <https://www.rijksoverheid.nl/onderwerpen/jeugdhulp/aanpak-geweld-in-de-jeugd zorg>.

## DUTCH INQUIRY COMMITTEE ON HISTORICAL CHILD ABUSE

In 2019, the Dutch Inquiry Committee on Historical Child Abuse in Alternative Care (in brief: the De Winter Committee) published the report of a very exhaustive study commissioned by the Dutch Ministry of Justice called *“Inadequately protected. Violence in Dutch youth care from 1945 to the present day.”*<sup>2</sup>

The study concerns children and young people who were placed in youth care (residential institutions and foster care settings) under the responsibility of the government and who sometimes experienced violence. The government decided to appoint a special Inquiry Committee, and asked prof. dr. Micha de Winter to lead this investigation. The main objective of the research was to collect as many facts and experiences about possible violence against children in alternative care. The study is quite unique: it is one of the largest investigations into historical child abuse in the world. Publishing such an extensive report is the first step towards justice for the victims and survivors. First, it recognizes their suffering and that they were harmed instead of cared for. Second, it provides important lessons for the future. However, more work is to be done to abolish child abuse in alternative care.

One of the main findings of the Inquiry Report makes clear how often violence in alternative care takes place: only one in four of those surveyed were never subjected to a degree of physical or psychological violence in youth care settings. Children experienced less violence in foster care than they did in institutions. The committee presents the following overarching brief message: *“There is an assignment for society and the government to recognize that from 1945 to the present day, many pupils in youth care have experienced violence, while these children should have been protected. Throughout the period, physical, psychological and sexual violence occurred in youth care settings. Ex-pupils who reported to the committee have experienced multiple forms of severe violence over several years. Often there was no intervention and pupils could not or dared not say anything to others. The government barely responded to signs of violence.”*

After careful consideration, the Committee presented 13 recommendations. Although these recommendations are made for the Dutch context, some could inform and inspire other governments. A summary of the study is attached as Annex 1 to this submission.

## ONE THOUSAND VOICES

When deliberating on the methodology, the Committee opted for two approaches. First, the stories and experiences of people who have experienced violence should be spotlighted. The Committee has documented and analysed one thousand experiences via their reporting mechanism (a focal point) and through various sector studies (e.g. studies investigating violence in residential care, in foster care, in juvenile justice institutions and in institutions for children with a mental illness). It was the Committee’s intention to have those stories told and to remain available as a form of recognition for the victims and survivors. Similarly, the Committee wanted to try and understand the root causes for the use of such violence. The Committee realized that it was important to look carefully at the circumstances including in which period of time the violence took place. According to the Committee, these insights are desperately needed to ensure that violence is banned from youth care settings as much as possible.

## DIFFERENT GROUPS OF CHILDREN

In general, research into historical child abuse has been conducted focusing on the past. However, this research has analysed the experiences and circumstances of a very broad group of children in alternative care. Looking at previous reports published in the Netherlands regarding violence against children, the Committee identified sufficient reason to include in their inquiry a focus on violence against children in the Youth Mental Health Care system, on the institutions for children with hearing or visibility

<sup>2</sup> The text of this submission is our own translation of sections of the report issued by committee De Winter.

impairments, and on the use of violence against unaccompanied migrant children in shelters for people who seek asylum.

## LEGAL FRAMEWORK

The formal rejection of all forms of violence against children in international laws was ultimately laid down in 1989 in the International Convention on the Rights of the Child (UN CRC). Although the 1959 Declaration of the Rights of the Child rejected certain forms of violence, it was not until 1989 that the international community embraced an explicit ban on violence. From 1959 onwards, it was stated internationally that violence against children is not acceptable. The 1959 Declaration of the Rights of the Child reads: "the child shall be protected against all forms of *neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form*". The UN CRC was adopted in 1989 and the Convention came into force for the Netherlands in 1995. The UN CRC embraced the fact that violence against children is not permitted in any form. Obligations for the State Parties were also formulated. For example, all State Parties should take appropriate legal and administrative social and educational measures to protect the child from all forms of violence, while the child is in the care of parents, legal guardian(s) or anyone else responsible for their care (Art. 19 UN CRC). The measures should include effective procedures for preventing and detecting, reporting, referral, investigation, treatment and follow-up of child abuse cases.

In recent decades, the European Court of Human Rights (ECtHR) has also mentioned in its rulings on article 3 of the ECHR (the right to protection against inhuman and degrading treatment, which, according to the Court, includes child abuse), several positive obligations for State Parties to prevent and address violence against children (i.e. effective detection mechanism in practice, effective collaboration and information exchange between organizations). States must also take special measures to effectively protect children from violence, for example at school, at home and in nurseries. Outsourcing or delegating responsibilities by the central government on others (e.g. the private initiative or the local government) does not relieve the government of this responsibility.

In the Netherlands, the non-binding Guidelines for Children in Alternative Care were adopted in 2010. These directives aim to implement article 20 of the UN CRC. For children who can no longer live at home, the Guidelines require, among other things, that children should always be treated with dignity and respect and be effectively protected from abuse, neglect and all forms of exploitation, whether due to carers, other children or third parties and whatever care environment they are in.

## RECOMMENDATIONS OF THE COMMITTEE

The Committee provided 13 recommendations in total. Following, seven are highlighted:

### 1. Keep the Committee's archives accessible and expand them

The Committee's investigation elucidated that many victims and survivors want the stories to be heard and told permanently. The Committee and its investigators have collected many stories from victims and survivors and written archives. These are of great importance for the societal recognition of victims and survivors and also for new scientific research. The Committee's archives must be preserved. It is also desirable that data collection should be made available to a wider audience.

These forms of data collection can assist victims of violence in terms of processing, recognition, empowerment and healing. It is very important that people can continue to tell their life story in the form of a 'life story book'. Collecting narratives or creating an online community gives victims and survivors the opportunity to tell their story or share it with others. It also provides people who don't see themselves as victims or survivors a chance to tell their stories. It allows people to process their past. In addition, public awareness and education is an objective of such initiatives. Public campaigning can increase attention to this.



## **2. Placement of children in (secure) institutions as a last resort**

The research demonstrates that the likelihood of becoming a victim of violence in institutions is significantly higher than in foster families. Due to insufficient social safety in institutions and the often repressive nature of the living environment, there is a risk that the problems of these children will deteriorate and the risks of violence will increase. Placement in a residential institution should therefore only be considered if lighter forms of assistance, whether or not in combination with placement in a foster family, are no longer appropriate.

The research also demonstrates that, especially in the more intrusive youth care settings, there is often a repressive climate, with freedom-restricting measures deployed, consequently resulting in a continuous tension between group staff and pupils. Especially in a secure treatment setting, it is extremely difficult to maintain the balance between control and a more open pedagogical vision. Specifically, these settings are perceived as unsafe by both staff and young people. Boredom and a lack of privacy increases the risk of aggression and violence, not only between professionals and youngsters but also peer-to-peer violence.

A placement in a youth detention facility should preferably be as short as possible, with continuous attention to the possibility of a follow-up placement in a less risky environment. A placement in a closed setting within the child protection system should never be used in the absence of less intrusive forms of care. It is important to improve the possibilities that allow a step-by-step transition from intensive (residential) help to lighter community-based forms, or to (supervised) self-dependence or a home placement. The range of these lighter interventions therefore needs to be expanded. In order to ensure the best possible transition between the various forms of care, good collaboration between the various organizations is essential. Poor collaboration increases the chances of failed placements and the multiple transfers of young people between different institutions, which lead to anger and frustration among young people. This significantly increases the risk of violence.

## **3. Reduce group size**

The fact that currently mainly older children with serious behavioral problems are placed in institutions and that these children can influence each other strongly in a negative sense (deviancy training), causes a lot of tension on the group, mutual violence, violence against staff and (reactive or non-reactive) violence from staff to pupils. It is therefore important to ensure that safety within the groups in the institutions improves. The inquiry shows that the size of the groups is an important factor in the tensions experienced by staff and pupils. Children living in a group in institutions need attention, love and with room for a tailored approach. This means that the number of children living in these groups must be reduced – also recommended by others in previous reports. Implementing this condition is crucial to reduce violence in youth care institutions.

## **4. Ensure that staff are well trained and that there is educational continuity**

The inquiry shows that the pedagogical climate in institutions has been troubled for years. This has improved since the 1990s, but pedagogical professionalization in youth care remains a point of attention. The research shows the importance of the presence of well-trained staff in institutions and the importance of (pedagogical) continuity.

The continuity of staff is still a major concern in the institutions. Pupils face many different staff members during their stay in an institution, but it is essential for the pupils to feel connected to one or two specific professionals. Working with relatively large groups of children with often serious behavioral problems is experienced as (very) difficult. The severity of the work, coupled with limited financial and social appreciation, ensure a high turnover of staff, which results in loss of methodical knowledge and pedagogical continuity is often not guaranteed. This increases the likelihood of violence.

The aforementioned means that not only the gravity of the work must be looked at, but also aspects such as remuneration and growth opportunities. Retaining (good) staff is the basic condition to create a safe institutional climate. It is also important that staff members learn to act as temperate as possible, experience sufficient support through feedback, and experience supervision and further training in relation to situations where violence is imminent or has occurred. This also implies that the staff continues to work methodically and adequately.

## **5. Collaborate more with parents and family**

Ex-pupils almost never talked to their parents about the violence they had experienced. In many cases, parents were side-lined as "failing educators." There was an almost complete separation between the child placed in alternative care and his/her parents.

Since the end of the last century, parents have become more involved in supporting their child who has been removed from their home. This continuous involvement of parents is of great importance for the success of the treatment and can shorten the placement in alternative care. In addition, this increases the likelihood that children who have been placed elsewhere will also report more to parents about the violence they experience in the institution.

## **6. Organise more robust, proactive, independent monitoring**

The research shows that supervision should have been a protective factor for the child who was placed in alternative care, but this was insufficiently realized in the history of youth care. The government has not provided enough protection to pupils in youth care settings through (external) supervision and has therefore not intervened sufficiently after incidents of violence.

It is important that external supervision of alternative care placements improves. This supervision is now mainly risk-driven and interventions only take place when something serious has happened. Improvements are then left to the field and marginally followed. This supervisory philosophy, which involves written remote supervision, could be improved by being more proactive, e.g. organizing regular field visits in which the pupils themselves are spoken to. This increases the chances of observing violence.

## **7. Discuss violence with children in youth care**

Former pupils in the institution and foster families had mostly missed the fulfilment of basic emotional needs. They needed someone who listened, showed affection and fulfilled the role of a parent (figure). Therefore, more attention is needed to the experiences of the children themselves during their stay in youth care.

The use of violence must be discussed regularly with pupils, both at the intake and afterwards. Exit conversations that explicitly ask about experiences of violence are indispensable. It is also important to invest in external support of the children by a person outside the institution or the foster family. This can be a (family) guardian or someone from their own network. Engage with the children and discuss their living situation during the placement.

The application of the complaints procedure for children in youth care must also be improved, for complaints about violence to be earlier identified. Children, at present, are not well-informed about the procedures, do not dare to report or are even hindered in reporting.<sup>3</sup>

<sup>3</sup> Youth Care Advisory and Complaints Office: 'young people in youth care are forgotten in complaints procedures'. <https://www.akj.nl/%e2%80%afjongeren-in-de-jeugdhelp-woorden-vergeten-in-klachtenprocedures%e2%80%af/?d=professionals>

## IN CONCLUSION

The University of Leiden (Child Law Department) and Defence for Children Netherlands jointly call upon the UN Committee on the Rights of the Child **to share all initiatives of combatting violence against children following the example of the Dutch Inquiry Committee**. The inquiry of the Dutch Committee serves as a **good practice** of investigating historical child abuse in the alternative care system.

The University of Leiden (Child Law Department) and Defence for Children Netherlands emphasise that the aforementioned recommendations are not necessarily country specific, but applicable to multiple contexts. Therefore, **we call upon the Dutch government as well as other governments to implement these recommendations and to report on progress**.

Particularly in the context of the UN Day of General Discussion, the study and the recommendations could potentially serve as input for the discussion on **how to properly implement strategies to combat violence against children**. The findings of such inquiries focusing on historical child abuse could inform **advocacy for prevention** of violence against children. However, it remains challenging to ensure the **implementation** of such recommendations. It could be interesting to discuss **how to overcome these challenges** and **how to convince State Parties** that action is required in order to fulfil their obligations. A few examples of actions to be taken by governments could be: **the strengthening of the legal position of and legal aid for children<sup>4</sup>, strategic litigation, media campaigns, to issue a complaint at the UN CRC** (under the Third Optional Protocol) or filing a liability suit at the court individually. **Historical child abuse inquiries can help us move forward in eradicating all forms of violence in alternative care settings by listening to the voices of those who have experienced alternative care as a child.**

<sup>4</sup> Bruning, M. et al (2020)., 'Children in court: from communication to effective participation The child's right to be heard and the procedural position of children in family and child protection proceedings', Den Haag: WODC 2020. English summary available: [https://repository.wodc.nl/bitstream/handle/20.500.12832/2431/2971\\_summary\\_tcm28-431102.pdf?sequence=3&isAllowed=y](https://repository.wodc.nl/bitstream/handle/20.500.12832/2431/2971_summary_tcm28-431102.pdf?sequence=3&isAllowed=y)

## ANNEX 1. EXECUTIVE SUMMARY REPORT COMMITTEE DE WINTER

*Inadequately protected. Violence in Dutch youth care from 1945 to the present day*

Committee for the Study on Institutional Child Abuse

The Hague, 2019

Physical, psychological and sexual violence has occurred in youth care throughout the period running from 1945 to the present day. Research carried out among a representative panel of the population reveals that nearly one in four of those surveyed were never subjected to a degree of physical or psychological violence in youth care. Around 10% of those surveyed said that they experienced at least one form of violence (physical or psychological, perpetrated by an adult or other children in care) frequently or very frequently. Children experienced less violence in foster care than they did in institutions. Until 1970, in particular physical violence perpetrated by group leaders and foster parents was a conspicuous phenomenon. After 1970 a shift occurred towards peer-on-peer physical violence and towards psychological violence.

For a long time the climate in institutions was perceived to be extremely harsh. More recently, too, the climate in the secure and stricter institutions for youth care has been perceived to be unsafe by both the children and the group leaders. For the most part, those children affected by violence reported psychological violence. This has gone on to affect them adversely later on in life, giving rise to all kinds of negative consequences. These are primarily in the psychological sphere and when it comes to engaging in social and intimate relationships. Various factors have contributed to incipient and ongoing violence in youth care.

For a long time society's negative view of children taken into care had an unfavourable effect. Youth care in the Netherlands has struggled with chronic underfunding, making it hard to retain staff (group leaders) at institutions and resulting in a lack of educational continuity. It was not until the 1990s that extensive child protection legislation and regulations were introduced, and that sustained efforts were made to bring about more wide-ranging professionalisation of youth care. This professionalisation is not yet complete. There have been significant deficiencies in terms of monitoring children in institutions and foster families. It was common practice not to intervene in cases of violence. Children were unable to tell someone or did not dare to do so. Children had virtually nobody they could turn to if they were a victim of violence.

Monitoring by means of inspections was negligible in the first few decades after the Second World War. The point of departure was for responsibility to rest with the private institutions. The government's supervisory role was expanded in the 1970s, but in practice the authorities continued to maintain their distance. The research reveals that the government barely responded to indications of violence at all from 1945 onwards, except in the case of major incidents. Many years later the onus is on society and the government to acknowledge that violence did occur in youth care. Violence affected children who ought to have been protected. The committee is making a number of recommendations.



The recommendations of the Committee for the Study on Institutional Child Abuse

1. Acknowledge the plight of victims of violence in youth care
2. Keep the committee's archives accessible and expand them
3. Improve the help available to victims of violence in youth care
4. Placement of children in (secure) institutions as a last resort
5. Reduce group size
6. Ensure that staff are well trained and that there is educational continuity
7. Collaborate more with parents and family
8. Improve support for foster parents
9. Ensure that family guardians perform their role better
10. Ensure better custodial placement in cases where children are taken into care
11. Organise more robust, proactive, independent monitoring
12. Discuss violence with children in youth care
13. Carry out research into prevalence in contemporary youth care